



**US Army Corps
of Engineers.**

Vicksburg District

4155 Clay Street

Vicksburg, MS 39183-3435

www.mvk.usace.army.mil

Special Public Notice

INITIAL PUBLIC NOTICE

NATIONWIDE PERMIT REISSUANCE REQUEST FOR COMMENTS

On February 16, 2011, the U.S. Army Corps of Engineers published in the Federal Register (76 FR 9174) its proposal to reissue 48 of its existing Nationwide Permits (NWP) and issue two new NWPs. An index of the proposed NWPs, their general conditions, and definitions is provided (enclosure 1). A full text copy of the proposed NWPs can be obtained through the internet at: www.usace.army.mil/CECW/Pages/nnpi.aspx; or at www.regulations.gov, Docket No. COE-2010-0035.

Nationwide Permits are general permits issued on a nationwide basis to streamline the authorization of activities that result in minimal individual and cumulative adverse effects on the aquatic environment. Many of the proposed NWPs require notification to the appropriate District Engineer before commencing the work, to ensure that the activities authorized by those NWPs have minimal individual and cumulative adverse impacts on the aquatic environment.

National Issues Concerning the Proposed NWPs: The Federal Register notice is the public's opportunity to comment on the proposed NWPs, their special conditions, the NWP general conditions, and definitions. Comments on national issues relating to these NWPs should be submitted through the internet at: www.regulations.gov, Docket No. COE-2010-0035; by email to Corps Headquarters at: NWP2012@usace.army.mil; or by mail to Headquarters, U.S. Army Corps of Engineers, Directorate of Civil Works, Attention: CECW-CO-R, 441 G Street, Northwest, Washington, D.C. 20314-1000. Additional instructions for submitting comments are provided in the February 16, 2011, Federal Register notice. Comments on the proposed NWPs are due by April 18, 2011.

Regional Issues Concerning the Proposed NWP's, Including Regional Conditioning: Division Engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular state or region. Regional conditions are important mechanisms to ensure that impacts to the aquatic environment authorized by the NWP's are minimal, both individually and cumulatively. Division Engineers may also suspend or revoke specific NWP's in certain geographic areas (e.g., states or watersheds) or high-value aquatic systems where impacts authorized by those NWP's may be more than minimal.

In conjunction with the Federal Register notice, Corps districts will solicit public comment for development of regional conditions for these NWP's. The proposed regional conditions currently under consideration by the Mississippi Valley Division for NWP activities within the geographic boundaries of Mississippi are provided (enclosure 2). The Vicksburg District, in its role as lead Corps district for Mississippi, is seeking comments on the proposed regional conditions and on the need for additional regional conditions to help ensure that impacts authorized by the proposed NWP's in Mississippi are minimal. Comments on regional issues relating to the proposed NWP's and on the regional conditions can be submitted by standard mail to: Vicksburg District, Corps of Engineers, Attention: Regulatory Branch, Mr. Mike Stewart, 4155 Clay Street, Vicksburg, Mississippi 39183-3435; or by e-mail to: regulatory@usace.army.mil. Comments relating to regional conditions are due by April 18, 2011. Similar public notices proposing regional conditions in other regions or States are being published concurrently by other Division or lead district offices.

Decision Making and Documentation: Draft combined decision documents, which include environmental documentation required by the National Environmental Policy Act, have already been prepared by Corps Headquarters for the proposed NWP's. These decision documents address compliance of the NWP's with the requirements for issuance under general permit authority. These documents, as well as the proposed NWP's, are available for viewing at the Vicksburg District, Corps of Engineers, Regulatory Branch, 4155 Clay Street, Vicksburg, Mississippi 39183-3435, or on the internet at www.regulations.gov, Docket No. COE-2010-0035. Final decision documents will be prepared by Corps Headquarters for those NWP's that are issued. In addition, the national NWP decision documents will be supplemented by Division Engineers to address their decisions concerning regional conditions for the NWP's.

A Federal Register notice announcing issuance of the NWPs will be made by Corps Headquarters prior to December 2011. Division Engineers will subsequently announce final regional conditions for states or regions within their division boundaries. States and Tribes will then make their final decisions regarding Clean Water Act Section 401 water quality certification and Coastal Zone Management Act (CZMA) consistency determination. The 401/CZMA decisions must be made within 90 days of the Federal Register notice announcing the issuance of the NWPs. The final NWPs will go into effect on or before March 19, 2012.

Index of Proposed Nationwide Permits, Conditions, and Definitions

Nationwide Permits

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Outer Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Utility Line Activities
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil and Hazardous Substances
21. Surface Coal Mining Activities
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
26. [Reserved]
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas
29. Residential Developments
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access, and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
39. Commercial and Institutional Developments
40. Agricultural Activities

41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities
45. Repair of Uplands Damaged by Discrete Events
46. Discharges in Ditches
47. [Reserved]
48. Existing Commercial Shellfish Aquaculture Activities
49. Coal Remining Activities
50. Underground Coal Mining Activities
- A. Land-Based Renewable Energy Generation Facilities
- B. Water-Based Renewable Energy Generation Pilot Projects

Nationwide Permit General Conditions

1. Navigation
2. Aquatic Life Movements
3. Spawning Areas
4. Migratory Bird Breeding Areas
5. Shellfish Beds
6. Suitable Material
7. Water Supply Intakes
8. Adverse Effects from Impoundments
9. Management of Water Flows
10. Fills Within 100-Year Floodplains
11. Equipment
12. Soil Erosion and Sediment Controls
13. Removal of Temporary Fills
14. Discovery of Previously Unknown Remains and Artifacts
15. Proper Maintenance
16. Single and Complete Project
17. Wild and Scenic Rivers
18. Tribal Rights
19. Endangered Species
20. Historic Properties
21. Designated Critical Resource Waters
22. Mitigation
23. Safety of Impoundment Structures
24. Water Quality
25. Coastal Zone Management
26. Regional and Case-by-Case Conditions
27. Use of Multiple Nationwide Permits
28. Transfer of Nationwide Permit Verifications
29. Compliance Certification
30. Pre-Construction Notification

Definitions

Best management practices (BMPs)
Compensatory mitigation
Currently serviceable
Discharge
Enhancement
Ephemeral stream
Establishment (creation)
High Tide Line
Historic property
Independent utility
Intermittent stream
Loss of waters of the United States
Non-tidal wetland
Open water
Ordinary high water mark
Perennial stream
Practicable
Pre-construction notification
Preservation
Re-establishment
Rehabilitation
Restoration
Riffle and pool complex
Riparian areas
Shellfish seeding
Single and complete linear project
Single and complete non-linear project
Stormwater management
Stormwater management facilities
Stream bed
Stream channelization
Structure
Tidal wetland
Vegetated shallows
Waterbody

**Proposed Regional Conditions (RCs) for Mississippi
2012 NATIONWIDE PERMITS (NWPs)**

A. Regional Conditions for All Nationwide Permits

1. For all Nationwide Permit (NWP) authorizations in the Coastal Zone of Mississippi, which includes Hancock, Harrison, and Jackson Counties:

On March 26, 2007, the Mississippi Department of Marine Resources (DMR) found that all Nationwide Permits are consistent to the maximum extent practicable with the Mississippi Coastal Program (copy attached) provided that the following Regional Conditions are followed in the Coastal Zone of Mississippi.

a. For all Nationwide Permit (NWP) authorizations, including those for activities that do not require Pre-Construction Notification (PCN) to the District Engineer (DE), activities in the following waters of the U.S. cannot be initiated until the applicant has received a Coastal Use Permit (CUP) or waiver from the Mississippi Department of Marine Resources (MS-DMR). Those waters of the U.S. requiring a CUP or waiver from MS-DMR prior to project initiation include:

1. All tidal waters in Hancock, Harrison, and Jackson counties, Mississippi, and
2. All waters of the U.S. having a hydrological connection to tidal waters in "a" above and that are located no more than 200 feet landward of the mean high tide mark.

b. For all regulated activities in (i) tidal waters and/or (ii) waters of the U.S. adjacent to tidal waters located in Hancock, Harrison, or Jackson counties, all Pre-Construction Notifications (PCNs) required by a specific NWP shall be completed using the Joint Application Form and shall be submitted to the Mississippi Department of Marine Resources (DMR) at the following address:

Mississippi Department of Marine Resources
Bureau of Wetlands Permitting
1141 Bayview Drive Suite 101
Biloxi, Mississippi 39530

Joint Application Forms may be printed or downloaded from the Mississippi Department of Marine Resources (DMR) website at: <http://www.dmr.state.ms.us/Coastal-Ecology/permitting/Joint-ApplicationNotification-Form2.pdf>, from the Vicksburg District Regulatory Program website at: <http://www.mvk.usace.army.mil/offices/od/odf/main.htm>, or from the Mobile District Regulatory Program website at: <http://www.sam.usace.army.mil/RD/reg/application.htm>.

NOTE: Where the Corps District and DMR have developed Programmatic General Permits for the type of activity proposed, DMR may process and issue the appropriate DA permit(s), along with any required Coastal Use Permit requirements. For activities not covered by Programmatic General Permits, DMR shall forward all application materials to the appropriate Corps District office for processing of any required DA permits. If the application is forwarded to the Corps for processing, DMR shall notify the Corps District if a Coastal Use Permit will be required for the activity.

1. **For all NWP authorizations on Black Creek in Perry County between Moody's Landing, downstream to the Fairley Bridge Road crossing** - a federally designated Wild and Scenic River reach in Mississippi - the applicant must obtain a written statement from the U.S. Forest Service (USFS) that the activity will not adversely affect the Wild and Scenic River designation prior to initiating any construction activities (see General Condition 17). If the proposed activity otherwise requires pre-construction notification (PCN) to the Corps, the PCN must include such written statement of approval from the USFS. (*U.S. Forest Service, Post Office Box 248, 654 West Frontage Road, Wiggins, Mississippi 39577*)
2. **For all regulated activities that might affect a Federally-listed threatened or endangered species or critical habitat** - Pre-Construction Notification (PCN) shall be required. Waterways in Mississippi with reported occurrences of Federally-listed threatened or endangered species or critical habitat, as of July 1, 2007, are listed below. Applicants are advised that the U.S. Fish and Wildlife Service (USFWS) may change the Endangered Species Act status of species in Mississippi waterways, and those changes would affect the list of waterways and associated "Species of Concern". Further, this Regional Condition does not lessen the restrictions or requirements provided by General Condition 19. As stated in General Conditions 19 and 30 (76 FR 9174 - 9207), the PCN from non-Federal applicants must include the name(s) of the

threatened or endangered species that might be affected by the proposed work or that utilize designated critical habitat that might be affected by the proposed work. PCNs from Federal applicants must include documentation of compliance with the Endangered Species Act. For NWP 6, 12, and 14 activities that trigger this PCN requirement, the PCN required by this condition may be limited to those portions of the activity that might affect a Federally-listed threatened or endangered species or critical habitat.

NOTE: The following definitions apply to the "listing index" following scientific names of the listed species of concern: C = Candidate Species; the U.S. Fish and Wildlife Service has enough scientific information to warrant proposing these species as endangered or threatened under the Endangered Species Act. CH = Critical Habitat; the U.S. Fish and Wildlife Service has designated official critical habitat for this species. LE = Listed Endangered; the U.S. Fish and Wildlife Service has listed these species as endangered under the Endangered Species Act. LT = Listed Threatened; the U.S. Fish and Wildlife Service has listed these species as threatened under the Endangered Species Act.

Bayou Pierre River and following tributaries: White Oak Creek, Foster Creek, and Turkey Creek - Located in Claiborne, Copiah, and Hinds Counties - Species of Concern: bayou darter (*Etheostoma rubrum* -LT)

Bear Creek - Located in Tishomingo County - Species of Concern: the cumberlandian combshell mussel (*Epioblasma brevidens* -LE) and the slabside pearlymussel (*Lexingtonia dolabelloides* -C)

Bogue Chitto River - Located in Pike County Species of Concern: gulf sturgeon (*Acipenser oxyrhynchus desotoi*-LT, CH) from State Highway 570 south

Mississippi River and adjacent land west of Main line levee - Located in the following Counties: Adams, Coahoma, Jefferson, Warren, Bolivar, DeSoto, Sharkey, Washington, Claiborne, Issaquena, Tunica, Wilkinson - Species of Concern: interior least tern (*Sterna antillarum* -LE), pallid sturgeon (*Scaphirhynchus albus* -LE), and/or the fat pocketbook (*Potamilus capax* -LE)

MS Coastal Waterways and Streams, including: Back Bay of Biloxi, Biloxi River, Escatawpa River, Old Fort Bayou, Pascagoula River, and Tchoutacabouffa River - Located in Harrison and Jackson Counties - Species of Concern: Alabama

red-bellied turtle (*Pseudemys alabamensis* -LE) and/or the yellow-blotched map turtle (*Graptemys flavimaculata* -LT)

Mississippi Sound and other back bays - Located in Hancock, Harrison, and Jackson Counties - Species of Concern: Brown pelican (*Pelecanus occidentalis* -LE), piping plover (*Charadrius melodus* -LE, CH), West Indian manatee (*Trichechus manatus* -LE), green turtle (*Chelonia mydas* -LT), kemp's ridley turtle (*Lepidochelys kempii* -LE), loggerhead turtle (*Caretta caretta* -LT), and/or the gulf sturgeon (*Acipenser oxyrhynchus desotoi* -LT, CH)

Pascagoula River and the following tributaries: Bouie, Chickasawhay, Okatoma, and Leaf Rivers - Located in the following Counties: Clarke, Greene, Perry, Forrest, Jackson, Stone, George, Jones & Wayne - Species of Concern: yellow-blotched map turtle (*Graptemys flavimaculata* LT), gulf sturgeon (*Acipenser oxyrhynchus desotoi* LT, CH), pearl darter (*Percina aurora* -C), and/or Alabama red-bellied turtle (*Pseudemys alabamensis* -LE)

Pearl River - Located in the following Counties: Covich, Leake, Neshoba, Scott, Hinds, Madison, Pearl River, Simpson, Lawrence, Marion & Rankin - Species of Concern: ringed map turtle (*Graptemys oculifera* -LT), gulf sturgeon (*Acipenser oxyrhynchus desotoi* -LE, CH), and/or the inflated heelsplitter (*Potamilus inflatus* -LT)

Tombigbee River and the following tributaries: Buttahatchie, Luxapalilla, and Bull Mountain - Located in Itawamba, Lowndes and Monroe Counties - Species of Concern: heavy pigtoe mussel (*Pleurobema taitianum* -LE), southern combshell mussel (*Epioblasma penita* -LE), southern clubshell mussel (*Pleurobema decisum* -LE), the ovate clubshell mussel (*Pleurobema perovatum* -LT), the black clubshell mussel (*Pleurobema curtum* -LE), the threatened Alabama moccasinshell (*Medionidus acutissimus* -LT), the threatened orange-nacre mucket (*Lampsilis perovalis* -LT)

NOTE: For all proposed activities requiring a PCN to the Corps, the Regulatory Project Manager shall coordinate with USFWS-Jackson, or its designee, and/or NMFS (if tidal waters or waters of the US that may influence tidal waters), to insure compliance with General Condition 19. The Corps' responsibility before initiating this coordination is to make a "No effect" or "May effect" determination for the activity. If sufficient information is not available from the applicant or from "in-house" information, the Corps may determine and inform the applicant that the PCN is incomplete. If a "May Affect"

determination is made, the Corps shall enter into informal consultation with USFWS/NMFS, and the Corps will notify the applicant that the evaluation of the application has been delayed pending the outcome of the T&E species consultation.

B. Corps Regional Conditions for Specific NWP

1. Nationwide Permit 12. Utility Lines.

Pre-Construction Notification (PCN) to the appropriate District Engineer shall be required for all Section 404 regulated activities that include new construction by a commercial or municipal entity (i.e. excludes maintenance of existing structures or fill), where the activity extends beyond the boundaries of single property ownership, if impacts to the following species or their critical habitat may occur within the "Project Area" of the proposed NWP 12 activity. These PCNs will be submitted to other agencies for comment as appropriate (e.g. USFWS, SHPO, DEQ, etc.).

Gopher Tortoise (*Gopherus polyphemus* -LT), Black Pine Snake (*Pituophis melanoleucus* ssp. *Lodingi* -C), and/or Eastern Indigo Snake (*Drymarchon corais couperi* - LT), upland habitats - Located in Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Marion, Pearl River, Perry, Stone, Walthall, and Wayne Counties

Louisiana Black Bear (*Ursus americanus luteolus* -LT) - No existing den or candidate den trees may be felled within areas known to be occupied by the Louisiana black bear. (Candidate den trees are defined as bald cypress and/or tupelo gum with visible cavities, having a minimum diameter-at-breast-height of 36 inches, and associated with rivers, lakes, streams, bayous, sloughs or other waterbodies - Located in counties south of Mississippi Highway 82.)

Louisiana Quillwort (*Isoetes louisianaensis* - LE) - intermittent and small perennial streams - Located in Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Pearl River, Perry, Stone, and Wayne Counties

Mississippi Gopher Frog (*Rana sevosa* - LE) - Isolated ephemeral (temporary) ponds/wetlands located in upland long-leaf pine habitat - Located in Jackson and Harrison Counties

Mississippi Sandhill Crane (*Grus canadensis pulla* - LE) - pine savannas, brackish marsh, cultivated fields, and pasture lands

within 5 miles of the Mississippi Sandhill Crane National Wildlife Refuge -Located in Jackson County

Pondberry (*Lindera melissifolia* - LE) -bottomland hardwood wetlands - Located in Bolivar, Sharkey, Sunflower, and Tallahatchie Counties

Price's potato bean (*Apios priceana* - LT) - wooded areas that grade into creek and river bottoms - Located in Chickasaw, Clay, Kemper, Lee, and Oktibbeha Counties

Red-cockaded woodpecker (*Picoides borealis* - LE), excavates nesting cavities in mature pine trees (60+ years old) - Located in Amite, Copiah, Forrest, Franklin, George, Greene, Harrison, Jackson, Jasper, Jefferson, Jones, Lincoln, Noxubee, Oktibbeha, Perry, Scott, Smith, Stone, Wayne, Wilkinson, Winston, and Yalobusha Counties (primarily found on or near US National Forests)

Legend: C = Candidate Species; the U.S. Fish and Wildlife Service has enough scientific information to warrant proposing these species as endangered or threatened under the Endangered Species Act. CH = Critical Habitat; the U.S. Fish and Wildlife Service has designated official critical habitat for this species. LE = Listed Endangered, the U.S. Fish and Wildlife Service has listed these species as endangered under the Endangered Species Act. LT = Listed Threatened; the U.S. Fish and Wildlife Service has listed these species as threatened under the Endangered Species Act.

NOTE: For all proposed activities requiring a PCN to the Corps, the Regulatory Project Manager shall coordinate with USFWS-Jackson, or its designee, and/or NMFS (if tidal waters or waters of the US that may influence tidal waters) to insure compliance with General Condition 19. The Corps' responsibility before initiating this coordination is to make a "No effect" or "May effect" determination for the activity. If sufficient information is not available from the applicant or from "in-house" information, the Corps may determine and inform the applicant that the PCN is incomplete. If a "May Affect" determination is made, the Corps shall enter into informal consultation with USFWS/NMFS, and the Corps will notify the applicant that the evaluation of the application has been delayed pending the outcome of the T&E species consultation.

2. Nationwide Permit 14: Linear Transportation Crossings.

Pre-Construction Notification (PCN) to the appropriate District Engineer shall be required for all Section 404 regulated activities that include new construction by a commercial or municipal entity (i.e. excludes maintenance of existing structures or fill), where the activity extends beyond the boundaries of single property ownership, if impacts to the following species or their critical habitat may occur within the "Project Area" of the proposed NWP 14 activity. These PCNs will be submitted to other agencies for comment as appropriate (e.g. USFWS, SHPO, DEQ, etc.).

Gopher Tortoise (*Gopherus polyphemus* - LT), Black Pine Snake (*Pituophis melanoleucus* ssp. *Lodingi* - C), and/or Eastern Indigo Snake (*Drymarchon corais couperi* - LT), upland habitats - Located in Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Marion, Pearl River, Perry, Stone, Walthall, and Wayne Counties

Louisiana Black Bear (*Ursus americanus luteolus* - LT) - No existing den or candidate den trees may be felled within areas known to be occupied by the Louisiana black bear. (Candidate den trees are defined as bald cypress and/or tupelo gum with visible cavities, having a minimum diameter-at-breast-height of 36 inches, and associated with rivers, lakes, streams, bayous, sloughs or other waterbodies - Located in counties south of Mississippi Highway 82.)

Louisiana Quillwort (*Isoetes louisianaensis* - LE) - intermittent and small perennial streams - Located in Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Pearl River, Perry, Stone, and Wayne Counties

Mississippi Gopher Frog (*Rana sevosa* - LE) - Isolated ephemeral (temporary) ponds/wetlands located in upland long-leaf pine habitat - Located in Jackson and Harrison Counties

Mississippi Sandhill Crane (*Grus canadensis pulla* - LE) - pine savannas, brackish marsh, cultivated fields, and pasture lands within 5 miles of the Mississippi Sandhill Crane National Wildlife Refuge - Located in Jackson County

Pondberry (*Lindera melissifolia* - LE) - bottomland hardwood wetlands - Located in Bolivar, Sharkey, Sunflower, and Tallahatchie Counties

Price's potato bean (*Apios priceana* - LT) - wooded areas that grade into creek and river bottoms - Located in Chickasaw, Clay, Kemper, Lee, and Oktibbeha Counties

Red-cockaded woodpecker (*Picoides borealis* - LE), excavates nesting cavities in mature pine trees (60+ years old) - Located in Amite, Copiah, Forrest, Franklin, George, Greene, Harrison, Jackson, Jasper, Jefferson, Jones, Lincoln, Noxubee, Oktibbeha, Perry, Scott, Smith, Stone, Wayne, Wilkinson, Winston, and Yalobusha Counties (primarily found on or near US National Forests)

Legend: C = Candidate Species; the U.S. Fish and Wildlife Service has enough scientific information to warrant proposing these species as endangered or threatened under the Endangered Species Act. CH = Critical Habitat; the U.S. Fish and Wildlife Service has designated official critical habitat for this species. LE = Listed Endangered, the U.S. Fish and Wildlife Service has listed these species as endangered under the Endangered Species Act. LT = Listed Threatened; the U.S. Fish and Wildlife Service has listed these species as threatened under the Endangered Species Act.

NOTE: For all proposed activities requiring a PCN to the Corps, the Regulatory Project Manager shall coordinate with USFWS-Jackson, or its designee, and/or NMFS (if tidal waters or waters of the US that may influence tidal waters) to insure compliance with General Condition 19. The Corps' responsibility before initiating this coordination is to make a "No effect" or "May effect" determination for the activity. If sufficient information is not available from the applicant or from "in-house" information, the Corps may determine and inform the applicant that the PCN is incomplete. If a "May Affect" determination is made, the Corps shall enter into informal consultation with USFWS/NMFS, and the Corps will notify the applicant that the evaluation of the application has been delayed pending the outcome of the T&E species consultation.

3. Nationwide Permit 41: Reshaping Existing Drainage Ditches.

a. Any clearing of vegetation or side casting of excavated material shall be restricted to one side of the drainage ditch, where practicable, with gaps between side-cast material every 50 feet.

b. Banks shall be seeded and stabilized upon completion of excavation activities.

4. Nationwide Permit 44: Mining Activities.

Pre-Construction Notification to the appropriate Corps District is required for all NWP 44 activities, **due to the denial of Water Quality Certification** for NWP 44 by the Mississippi Department of Environmental Quality.

C. ADDITIONAL APPLICATION REVIEW REQUIREMENTS FOR PCNs FOR SPECIFIC NWPS

1. Complete PCNs for authorizations under NWPs 12, 14, 21, 29, 39, 40, 42, and 43 that include a discharge into a Monitored waterway of the Mississippi 303(d) waters listed for sediment or biological impairment or waterways with a completed TMDL for sediment or biological impairment shall include:

- a. a statement of why the discharge cannot be avoided;
- b. a description of best management practices that will be utilized on the project site to minimize adverse impacts within the project area at the site;
- c. if the Corps determines that compensation is required to insure that adverse impacts resulting from the activity will be no more than minimal, the applicant shall also submit a compensatory mitigation plan for approval by the Corps.

1. For PCNs described in C.1, above, the DE shall give Mississippi Department of Environmental Quality (MS-DEQ) staff an opportunity to comment on all of the above mitigation measures.

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